

REMARKS

Claims 1 and 3 have been amended. Claims 21 and 22 have been added new. Claim 2 has been canceled. Claims 1, 3-6 and 8-22 are now pending in the application. Applicant reserves the right to pursue the original and other claims in this and other applications.

Claims 1, 3, 6, 8-10, 12-13, and 15 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 2005/0171525 to Rioux, et al. ("Rioux").¹ This rejection is respectfully traversed.

Independent claim 1 defines an apparatus for the interstitial coagulation of tissue and recites "a first three-dimensional treatment electrode that can be expanded to various states of expansion during use and is adapted to conduct an HF coagulation current into said tissue, the treatment electrode being formed such that by one of continuous and stepwise expansion of said electrode it can be kept in constant electrical contact with the tissue during coagulation; and a control device for controlling the state of expansion of the treatment electrode dependent on the coagulation current, wherein the control device is adapted to expand the treatment electrode in response to a decrease of strength of the coagulation current."

Rioux does not disclose such limitations. Rioux discloses a balloon catheter that can be expanded and collapsed. Rioux, ¶ 38. Rioux further discloses that the balloon catheter has an RF generator 1440 that provides an RF current to a conductive material of the balloon. Rioux, ¶ 42. Also, Rioux discloses an impedance measurement system 1450 that includes a sensor on the exterior of the balloon that can measure the impedance of the tissue proximate to the exterior of the balloon. *Id.* Based on the impedance measurement from the impedance measurement system 1450, the RF generator 1440 controls the amplitude, frequency and/or power of the energy provided to the balloon to control the ablation process. *Id.*

¹ Applicant notes that claim 2 was rejected under 102(e). However, claim 2 has been canceled and therefore does not currently stand rejected.

Rioux does not disclose “a control device for controlling the state of expansion of the treatment electrode dependent on the coagulation current, wherein the control device is adapted to expand the treatment electrode in response to a decrease of strength of the coagulation current,” as recited in claim 1. Rather, Rioux controls the amount of RF energy provided to the balloon based on the impedance measurement of the coagulated tissue that is completely independent of whether the balloon is expanded or collapsed. As Rioux does not disclose each and every limitation of claim 1, Rioux does not anticipate claim 1. Claims 3, 6, 8-10, 12-13, and 15 depend from claim 1 and are allowable for at least the same reasons. Accordingly, the rejection should be withdrawn and the claims allowed.

Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Rioux. This rejection is respectfully traversed. Claim 4 depends from claim 1, and is allowable for at least the same reasons discussed above with respect to claim 1. Accordingly, the rejection should be withdrawn and the claim allowed.

Claim 5 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Rioux in view of U.S. Patent No. 5,545,195 to Lennox. This rejection is respectfully traversed. Claim 5 depends from claim 1, which is allowable over Rioux for at least the same reasons discussed above. Lennox, which is cited as teaching a measurement device, does not cure the deficiencies of Rioux. Accordingly, claim 5 is allowable over the cited combination and Applicant respectfully requests that the rejection be withdrawn and the claim allowed.

Claim 14 stands rejected under 35 U.S.C. § 103(c) as being unpatentable over Rioux in view of U.S. Patent No. 6,837,885 to Koblish, et al. (“Koblish”). This rejection is respectfully traversed. Claim 14 depends from claim 1, which is allowable over Rioux for at least the same reasons discussed above. Koblish, which is cited as teaching a suction device and an electrode that can be expanded to various states during use, does not cure the deficiencies of Rioux. Accordingly, claim 14 is allowable over the cited combination and Applicant respectfully requests that the rejection be withdrawn and the claim allowed.

Claims 11 and 16 stand rejected under 35 U.S.C. § 103(c) as being unpatentable over Rioux in view of U.S. Patent No. 5,797,903 to Swanson et al. ("Swanson"). This rejection is respectfully traversed. Claims 11 and 16 depend from claim 1 and are allowable over Rioux for at least the same reasons discussed above. Swanson, which is cited as teaching using a viscosity-modifying substance, does not cure the deficiencies of Rioux. Accordingly, claims 11 and 16 are allowable over the cited combination and Applicant respectfully requests that the rejection be withdrawn and the claims allowed.

Claim 17 stands rejected under 35 U.S.C. § 103(c) as being unpatentable over Rioux in view of U.S. Patent No. 6,544,223 to Kokish. This rejection is respectfully traversed. Claim 17 depends from claim 1, which is allowable over Rioux for at least the same reasons discussed above. Kokish, which is cited as teaching a first porous layer and a second microporous layer, does not cure the deficiencies of Rioux. Accordingly, claim 17 is allowable over the cited combination and Applicant respectfully requests that the rejection be withdrawn and the claim allowed.


Claims 18-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Rioux in view of U.S. Patent No. 4,983,167 to Sahota. This rejection is respectfully traversed. Claims 18-20 depend from claim 1 and are allowable over Rioux for at least the same reasons discussed above. Sahota, which is cited as teaching a plurality of expandable bodies, does not cure the deficiencies of Rioux. Accordingly, claims 18-20 are allowable over the cited combination and Applicant respectfully requests that the rejection be withdrawn and the claims allowed.

Newly presented claims 21 and 22 depend from claim 1 and are allowable for at least the same reasons discussed above.

In view of the above, Applicant requests that the application be allowed.

Dated: September 7, 2010

Respectfully submitted,

By 

Gianni Minutoli

Registration No.: 41,198

Brian Parke

Registration No.: 59,226

DICKSTEIN SHAPIRO LLP

1825 Eye Street, NW

Washington, DC 20006-5403

(202) 420-2200

Attorneys for Applicant